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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/776,866	02/11/2004	Daniel L. Durham	DUR03 P-300A	3876

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EXAMINER

DAVIS, CASSANDRA HOPE

ART UNIT	PAPER NUMBER
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3611

DATE MAILED: 07/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/776,866

Applicant(s)

DURHAM, DANIEL L.

Examiner

Cassandra Davis

Art Unit

3611

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. Claims 3 and 7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 3 and 7 use improper Markush phraseology. The examiner will consider favorably the phrase "The cloth fabric is selective from the group consisting of felt and corduroy."

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 2, and 4 are rejected under 35 U.S.C. 102(b) as being anticipated by Emanuel et al., U. S. Patent 6,189,968.

Emanuel teaches a device for chairs comprising a flexible base sheet and flexible pocket secured to a central portion base, wherein a printed material can be place within the pocket and viewed through the pocket. Emanuel also teaches a VELCRO fastening material on the free end of the base sheet so that the base sheet can be wrapped around a portion of the chair and free end can be secured to one another.

With respect to claim 2, the base sheet can be made of waterproof fabric or an "elegant" fabric. (Column 2, lines 65-68 and column 3, line 1-10).

With respect to claim 4, Emanuel teaches hook section 14 secured to one end of the base sheet and pile material 16 secured to the other end of the base sheet.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Emanuel.

Since the applicant has not disclose that constructing the device of felt or corduroy solves any stated problem or is for any particular purpose, it appears that constructing the device of any suitable fabric as taught by Emanuel would perform equally well.

6. Claims 5-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Saenz, U. S. Patent 4,66,401 in view of Finnigan, U. S. Patent 4,057,181.

Saenz teaches a removable seat belt cover comprising a flexible base 22 and 24 and a flexible pockets 36, 38, and 40 secured to the base, wherein material can be place within the pocket. Saenz also teaches VELCRO fastening material 46 and 48 on the free ends 28 and 30 of the base sheet so that the base sheet can be wrapped around a portion of the seat belt and the free ends can be secured to one another. Saenz does not teach the pockets made of transparent material.

Finnigan teaches a container for articles with means for removably mounting on a body belt or safety harness comprising a base sheet 26, a zipper fastener 27, and a transparent pocket 60 containing a card 61 with printed matter. (Column 4, lines 62-65).

It would have been obvious to one having ordinary skill in the art at the time this invention was made to construct the pocket of the cover device taught by Saenz of transparent material as taught by Finnigan to provide a means the see the document placed within the pocket.

With respect to claim 6, Saenz teaches the base sheet can be made of fabric, wool, and cotton. (Column 3, lines 17-21).

With respect to claim 8, Saenz teaches hook material 46 secured to one end of the base sheet and pile material 48 secured to the other end of the base sheet. (Column 4, lines 37-42).

7. With respect to claim 7, since the applicant has not disclose that construct the device of felt or corduroy solves any stated problem or is for any particular purpose, it appears that constructed the device of any suitable fabric as taught by Saenz or Finnigan would perform equally well.


Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Rodgers, British Patent 1,565,644 is cited to show a cover for a seat belt having a pocket.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cassandra Davis whose telephone number is 703-308-2223. The examiner can normally be reached on Monday-Friday 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lesley Morris can be reached on 703-308-0629. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Cassandra Davis
Primary Examiner
Art Unit 3611

CD
July 20, 2004